

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KALIMAH ALI,

Plaintiff,

-v.-

DAINESE USA, INC., ALBERTO
RUBIO, and HECTOR HERNANDEZ,

Defendants.

19 Civ. 2422 (KPF)

ORDER

KATHERINE POLK FAILLA, District Judge:

The Court entered a Civil Case Management Plan and Scheduling Order in this case on December 16, 2019, that set the deadline for fact discovery as April 12, 2020. (Dkt. #28). The parties filed a joint letter motion on April 24, 2020, requesting an extension of the discovery deadlines. (Dkt. #29). Mindful of difficulties occasioned by the COVID-19 pandemic, the Court granted the extension and entered a revised Civil Case Management Plan and Scheduling Order on April 27, 2020, resetting the fact discovery deadline to September 9, 2020. (Dkt. #29-30). In effect, the Court more than doubled the time allotted to the parties for fact discovery.

On September 8, 2020, Plaintiff filed a consent motion for a second extension of the discovery deadlines. (Dkt. #39). The Court again granted the extension, but noted its dismay with Plaintiff's disregard for the Court's deadlines and stated that no further discovery extensions would be granted. (Dkt. #40). By that Order, the fact discovery deadline was reset to November 6, 2020. (*Id.*).

On September 30, 2020, Defendants filed a motion for discovery sanctions, citing Plaintiff's alleged failure to fulfill her production obligations and the resulting

delays in the completion of fact discovery. (Dkt. #41). Plaintiff filed a letter in opposition on October 5, 2020. (Dkt. #42). The Court issued a memorandum endorsement on October 14, 2020, ordering the parties to be prepared to discuss the discovery sanctions motion at the next conference scheduled for November 12, 2020, and inviting the parties to propose modifications to the existing fact discovery deadline in the meantime. (Dkt. #43). The Court's intention was to provide Plaintiff with a final opportunity to comply with her document production obligations and to sit for a deposition before the Court would consider Defendants' motion for sanctions.

Instead, on October 29, 2020, Plaintiff filed a third request for an extension of all discovery deadlines. (Dkt. #44). Defendants did not consent and filed a response in opposition the same day. (Dkt. #45). On October 30, 2020, the Court issued a memorandum endorsement ordering Plaintiff to complete her document production and appear for her noticed deposition in the month of November but maintaining the remaining existing discovery deadlines. (Dkt. #46). In effect, the Court granted Defendants a 30-day extension for the deposition it sought, but denied the same to Plaintiff, in light of the fact that Plaintiff's delinquencies had been the principal cause for the delays.

Plaintiff then filed a letter requesting an emergency conference (Dkt. #47), which request the Court granted (Dkt. #48). The Court held that conference by telephone on November 2, 2020.

After hearing from the parties, the Court continues to believe that its Order dated October 30, 2020, was justified and reasonable given Plaintiff's persistent

inattention to discovery obligations and deadlines. Nonetheless, upon reconsideration, the Court modifies its Order to authorize Plaintiff to take **one** deposition in the month of November beyond the current deadline of November 6, 2020, the same courtesy the Court afforded to defense counsel. Any depositions noticed to take place on or before November 6, 2020, may proceed as scheduled, subject of course to counsel and witness availability. In this regard, the Court expects that defense counsel and the putative deponents will make good-faith efforts to be available, though it will not require counsel or deponents to reschedule pre-existing commitments. In all other respects, the existing discovery deadlines remain in effect.

The next conference in this matter will proceed as scheduled on **December 4, 2020, at 2:00 p.m.**

SO ORDERED.

Dated: November 3, 2020
New York, New York



KATHERINE POLK FAILLA
United States District Judge